

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KRISTY PFLUG,

Plaintiff,

-against-

COUNTY OF SUFFOLK,

Defendant.

X

DECLARATION

Case No. 20-CV-00018 (SIL)

X

HOPE SENZER GABOR hereby declares under the penalty of perjury pursuant to 28 U.S.C. §1746 as follows:

1. I am an Assistant County Attorney in the Office of Dennis M. Brown, Acting Suffolk County Attorney, Suffolk County Department of Law, attorney for the Defendants, COUNTY OF SUFFOLK, in this action brought by plaintiff, Kristy Pflug, pursuant to the Americans with Disabilities Act (ADA) and the NYS Executive Law § 296 (NYSHRL).

2. This Declaration is based upon information and belief, the source being the books and records of the County, conversations with officers and employees of the County, including the named Defendants herein and a review of the available, admissible evidence produced in this litigation, As such, I am fully familiar with this file and submit this Declaration, along with the accompanying Memorandum of Law, in support of Defendant's motion for summary judgment pursuant to Fed. R. Civ. P. 56.

3. There are no genuine issues of fact upon which Plaintiff can support claims on any causes of action against Defendant, and as such, Defendant is entitled to summary judgment pursuant to Fed.R.Civ.P. Rule 56.

4. Attached hereto a true and correct copy of Defendant's Rule 56.1 Statement, which contains the following exhibits:

Defendant's Rule 56.1 Statement

6. Attached hereto as **EXHIBIT A** is a true and correct copy of Plaintiff's First Amended Complaint filed on March 10, 2021.

7. Attached hereto as **EXHIBIT B** is a true and correct copy of Plaintiff's deposition transcript of April 18, 2023.

8. Attached hereto as **EXHIBIT C** is a true and correct copy of Suffolk County Police Department (SCPD) Department Directive, Order Number 11-112, issued May 31, 2011, granting Plaintiff a parental leave of absence through April 9, 2012.

9. Attached hereto as **EXHIBIT D** is a true and correct copy Plaintiff's approved leave of absence from April 10, 2011 through April 9, 2012.

10. Attached hereto as **EXHIBIT E** is a true and correct copy of SCPD correspondence confirming that Plaintiff returned from her leave of absence on April 10, 2012.

11. Attached hereto as **EXHIBIT F** is a true and correct copy of a letter from Scott McWilliams, M.D., Plaintiff's doctor, dated March 9, 2011.

12. Attached hereto as **EXHIBIT G** is a true and correct copy of the deposition transcript of Jennifer Worthington of May 10, 2023.

13. Attached hereto as **EXHIBIT H** is a true and correct copy of a SCPD Memo from Lt. William Rohrer, E.O Communications dated August 3, 2012, RE: Revised Policy Mandated O/T Exemptions.

14. Attached hereto as **EXHIBIT I** is a true and correct copy of email from Maureen Looby, SCPD Human Resources Bureau dated January 11, 2013 regarding Mandated Overtime.

15. Attached hereto as **EXHIBIT J** is a true and correct copy of a Written Reprimand dated November 17, 2012, regarding Plaintiff's failure to work an X-Day and for time management issues.

16. Attached hereto as **EXHIBIT K** is a true and correct copy of a SCPD Internal Correspondence dated November 15, 2012, authored by Plaintiff with subject: "Missing my X-Day"

17. Attached hereto as **EXHIBIT L** is a true and correct copy of a SCPD Internal Correspondence dated November 19, 2012 authored by PSD III Dennis Lawlor regarding Plaintiff's failure to report to work for her scheduled X-Day.

18. Attached hereto as **EXHIBIT M** is a true and correct copy of a SCPD Internal Correspondence dated December 11, 2012 authored by Plaintiff, addressed to Lt. Rohrer, E.O. Communications entitled: "Lateness from meal".

19. Attached hereto as **EXHIBIT N** is a true and correct copy of a SCPD Internal Correspondence dated December 23, 2012 authored by Plaintiff, addressed to Lt. Rohrer, E.O. Communications entitled: "Mandate".

20. Attached hereto as **EXHIBIT O** is a true and correct copy of a SCPD Internal Correspondence dated December 28, 2012 authored by PSD II Sandra Flammer, addressed to Lt. Rohrer, E.O. Communications entitled: "Mandate Information Regarding Kristy Pflug, PSD 514".

21. Attached hereto as **EXHIBIT P** is a true and correct copy of a SCPD Internal Correspondence dated December 25, 2012 authored by PSD III Chris Glynn, addressed to Lt. Rohrer, E.O. Communications entitled: "PSD Kristy Pflug # 514 Refused Mandate 12/25/12".

22. Attached hereto as **EXHIBIT Q** is a true and correct copy of a SCPD Internal Correspondence dated January 8, 2013 authored by Plaintiff, addressed to Lt. Rohrer, E.O. Communications entitled: “Mandate”.

23. Attached hereto as **EXHIBIT R** is a true and correct copy of a SCPD Supervisor’s Complaint Report dated January 8, 2013 regarding Plaintiff’s refusal of a direct order to stay for mandated overtime.

24. Attached hereto as **EXHIBIT S** is a true and correct copy of “Notice of Charges and Specifications and Hearing Procedure” addressed to Public Safety Dispatcher I Kristy Pflug, which contains fourteen charges of misconduct, signed by Plaintiff acknowledging service thereof on June 4, 2013.

25. Attached hereto as **EXHIBIT T** is a true and correct copy of a SCPD Department Directive, Order Number 13-119, issued on June 4, 2013 entitled: “Departmental Charges”.

26. Attached hereto as **EXHIBIT U** is a true and correct copy of SCPD “Resignation of Member” dated July 4, 2013 signed by Plaintiff, resigning her employment with the County.

27. Attached hereto as **EXHIBIT V** is a true and correct copy of a Stipulation and Agreement and General Release executed by Plaintiff on September 3, 2013.

28. Attached hereto as **EXHIBIT W** is a true and correct copy of correspondence from Plaintiff to SCPD Commissioner Webber dated March 11, 2014, requesting that she be rehired by the County.

29. Attached hereto as **EXHIBIT X** is a true and correct copy of correspondence from SCPD Human Resources dated March 17, 2014, in response to Plaintiff’s March 11, 2014 letter, indicated that the SCPD does not have budgetary approval to fill a position of PSD I at that time.

30. Attached hereto as **EXHIBIT Y** is a true and correct copy of Supervisor's Record of Verbal Reprimand issued to Kristy Pflug on May 26, 2012, from PSD III Petrina Hubner.

31. Attached hereto as **EXHIBIT Z** is a true copy of a "Certificate of Work Restrictions" dated November 11, 2012, regarding Plaintiff, authored by Dr. Erika Jurasits, North Country Family Health & Med. P.C.

32. Attached hereto as **EXHIBIT AA** is a true and correct copy of a letter addressed "To Whom it May Concern" dated August 30, 2012, regarding Plaintiff's daughter Annabelle's "serious medical condition" authored by Katherine Wightman, MD.

33. Attached hereto as **EXHIBIT BB** is a true and correct copy of a Declaration of Colleen Jaen, PSD III dated August 24, 2023.

WHEREFORE, it is respectfully requested that this Honorable Court grant the Defendant's motion for summary judgment, dismissing all claims within the Plaintiff's Amended Complaint, and grant Defendant such other and further relief that to the Court seems just and proper.

I declare under the penalties of perjury that the foregoing is true and correct.

Dated: Hauppauge, New York
September 8, 2023

s/ Hope Senzer Gabor
Assistant County Attorney